

IN THE UNITED STATES DISTRICT COURT

FILED
BILLINGS DIV.

FOR THE DISTRICT OF MONTANA

2010 AUG 2 PM 3 00

BUTTE DIVISION

PATRICK E. DUFFY, CLERK
BY _____

DEPUTY CLERK

NORMAL LEE ANDSERCH,) CV-10-13-BU-RFC

)

Plaintiff,)

)

vs.)

)

ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS OF
U.S. MAGISTRATE JUDGE

NORTHWESTERN CORP., d/b/a)

NORTHWESTERN ENERGY,)

STEVEN REYNOLDS, HEATHER)

BURNS, BOBBI SCHROEPPEL,)

BRIAN BIRD, JEANNE VOLD,)

and DOES 1-V,)

)

Defendants.)

)

On June 30, 2010, United States Magistrate Judge Carolyn Ostby entered Findings and Recommendation (*Doc. 29*) regarding Plaintiff's Motion to Remand (*Doc. 13*). Magistrate Judge Ostby recommends the motion be denied because Defendant Steven Reynolds was fraudulently joined and there is therefore complete diversity of citizenship.

Upon service of a magistrate judge's findings and recommendation, a party has 14 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, no

party filed objections to the Findings and Recommendation. Failure to object to a magistrate judge's findings and recommendation waives all objections to the findings of fact. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999). Failure to object, however, does not relieve this Court of its burden to review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

Here, Magistrate Judge Ostby correctly concluded that since Montana's Wrongful Discharge from Employment Act does not envision lawsuits against employees or officers, only the employer, *Buck v. Billings Montana Chevrolet, Inc.*, 811 P.2d 537, 543 (Mont. 1991), Andersch obviously failed to state a claim against Reynolds. Accordingly, after reviewing the record and applicable law, this Court finds Magistrate Judge Ostby's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety.

Accordingly, **IT IS HEREBY ORDERED** that Andersch's Motion to Remand (*Doc. 13*) is **DENIED**.

DATED the 23 day of August 2010,


RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE